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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.5268 OF 1996

Sharp Detectives Pvt. Ltd.
Alankar Talkies, 2nd Floor
Near Pune Railway Station
Pune 411001. .. PETITIONER

VERSUS

1) Babu D. Tribhuvan
C/o.F.D. Tribhuvan
427, Rasta Peth
Pune-11.

2) Member
Industrial Court, Pune
at Pune. .. RESPONDENTS

Mr.A.M. Joshi for the Petitioner.

Mrs.Suvarna Telgote for Mr.R.R. Salvi for
Respondent No.1.

Respondent No.2 formal party.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 19TH SEPTEMBER 2006

ORAL JUDGMENT :

. This Petition challenges the Order dated 11th July 1996 of the Member, Industrial Court, Pune in Complaint (ULP) No.211 of 1988. The Industrial Court has held that the Petitioner had indulged in an unfair labour practice under Items 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971

(hereinafter referred to as "the Act") by not implementing the Award passed by the Labour Court in Reference (IDA) No.103 of 1985.

2. The facts giving rise to the present Petition are as follows :-

. The workman i.e. the first Respondent was employed with a security agency called M/s.International Security Services. He secured an Award against this establishment after his services were illegally terminated. This Award came to be passed in Reference (IDA) No.103 of 1985. The Award was passed on 22nd December 1986. M/s.International Security Services or the Management did not challenge that Award. The first Respondent, therefore, filed a Complaint under Items 9 and 10 of Schedule IV of the Act. This Complaint was numbered as Complaint (ULP) No.211 of 1988. The Complaint was allowed ex-parte against the present Petitioner. It appears that the order in the Complaint was set aside on an application being made by the Petitioner and Complaint was restored to file. Evidence was led by the first Respondent as well as the representative of the Petitioner.

3. There is no evidence at all on record to indicate that the first Respondent was employed with the

Petitioner. Nor is there any evidence on record to establish that M/s.International Security Services was taken over by Sharp Detectives Pvt. Ltd. i.e. the present Petitioner. The only statement made regarding M/s.International Security Services being taken over is that the first Respondent has stated that his brother who was employed with the present Petitioner informed him that M/s.International Security Services was taken over by the present Petitioner. Additionally he has also deposed that both the offices i.e. the Sharp Detectives Pvt. Ltd. and M/s.International Security Services are located on the same floor of a building near Pune Railway Station. Apart from this, there is no other evidence on record to establish that the two concerns are the same or that one has been taken over by the other. The Petitioner's representative has also placed on record before the Industrial Court the Memorandum of Association and Articles of Association of the Petitioner. The Petitioner Company was established on 16th October 1985.

4. The Labour Court by a convoluted reasoning has allowed the Complaint. The Labour Court has held that the denial by the Petitioner of its relationship with the first Respondent indicates that there was some relationship between the two. The very fact that the Petitioner denied back wages to the first Respondent

would establish, according to the Labour Court, the relationship between the first Respondent and the Petitioner. The Labour Court has then considered whether the attendance card issued to the brother of the first Respondent by the Petitioner had any relevance . The Industrial Court came to the conclusion that the offices of the two establishments being on the same floor, in the same building would also indicate that the two entities are the same and that the Award must be implemented by the Petitioner.

5. It is difficult to fathom the reasoning of the Industrial Court. In my opinion, there is not an iota of evidence at all to establish that the Petitioner and M/s.Industrial Security Services is one and the same establishment or that the assets and liabilities of the latter have been taken over by the Petitioner. The order of the Industrial Court, to say the least, is perverse and, therefore, requires to be set aside.

6. Petition allowed. The impugned order of the Industrial Court, Pune set aside. Rule made absolute accordingly. No order as to costs.